

Remarks/Arguments:

Claims 24-46 are pending. Claims 24-39, 45 and 46 stand rejected and claims 40-44 are withdrawn. Applicants affirm the election of claims 24-39, 45 and 46 for prosecution.

Applicants wish to thank the Examiner for the courtesy extended towards Applicants' representative during the telephone interview of October 12, 2004. During that interview, claims 24, 25, 45 and 46 were discussed. Specifically, the basis for rejecting claims 24-30, 32, 33, 35-39, 45 and 46 under 35 U.S.C. §102(b) as being anticipated by Butler (U.S. Patent No. 3,873,862) was addressed by applicants' representative. Applicants' representative pointed out that the Butler reference failed to disclose or suggest each and every feature of applicants' claimed invention. In response, the Examiner asserted different features of the Butler reference not relied on in the Office Action to purportedly anticipate applicants' claimed invention. The Examiner did suggest, however, that amending the claims to include the term "inner" to further define the motor housings would overcome the Butler reference. Although applicants' appreciate the Examiner's suggestion, they feel that such an amendment is unnecessary to overcome the Butler reference.

REJECTIONS UNDER 35 U.S.C. §102

The Office Action at page 3, paragraph 8 sets forth " Claims 24-30, 32, 33, 35-39, 45 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Butler US patent 3,873,862." Applicants respectfully traverse this rejection for the reasons set forth below.

Applicants' invention, as recited in Claim 24, includes features not disclosed or suggested in Butler, namely:

... a first motor housing having at least one inlet opening disposed on a surface of the first motor housing ...

... a second motor housing having at least one outlet opening disposed on a surface of the second motor housing ...

... a stator comprising ... a plurality of laminations formed in a stack and substantially disposed within at least one of the first motor housing and the second motor housing ...

... a first portion of windings disposed on a first side of the stack and substantially within the first motor housing...

... a second portion of windings disposed on a second side of the stack and substantially within the second motor housing ... (emphasis added)

These features are described in applicants' specification, for example, at page 7, line 1 through page 8, line 13.

According to claim 24, the fan motor comprises first and second motor housings (102 and 103) having at least one opening in each, a plurality of laminations (111) formed in a stack and disposed within either or both the first and second motor housings, a first portion of windings (112) substantially disposed within the first housing, and a second portion of windings (114) substantially disposed within the second housing.

The Office Action relies on Butler as teaching "a first housing (92) ... a first wall defining a first interior space (inside of 92) and a second housing (100) ... defining a second interior space (inside of 100)." Office Action at page 3-4, paragraph 8. Applicants' respectfully disagree with this characterization of Butler. Specifically, element 92 is defined by Butler to be a cylindrical housing containing motor field 32. Further, the "second housing" 100 is not a housing, but rather "a closure plate" to close off "the front or open end of housing 92." As such this plate does not define any interior space. Col. 4, lines 12-14 and Fig. 4. Additionally, the Office Action does not provide any indication that Butler discloses other elements of applicants claimed invention, such as i) a first portion of the winding disposed substantially within the first motor housing and ii) a second portion of the winding disposed substantially within the second motor housing. Thus, by not having each and every element of applicants' claim the Office Action fails make a *prima facie* case of anticipation. It is well established that the examiner bears the burden of presenting at least a *prima facie* case of anticipation.^{1 2}

¹ In re King, 231 USPQ 136, 138-39 (Fed. Cir. 1986)

During the telephone interview referenced above, these differences were pointed out by Applicants' representative. Although, it was acknowledged that these specific elements (92, 100) failed to disclose or suggest applicants' claimed invention, the Examiner recast the 35 U.S.C. 102 rejection as based on elements 114 and 112 providing a teaching of the first and second motor housings. Again applicants respectfully disagree with this interpretation of Butler. According to Butler, "head portion 112 of casing 12 ... is secured to closure plate 100. The remainder of casing 12 is a ... sleeve portion 114 which is captured or held between end cap 100 [sic] and head 112 and is generally spaced outwardly from and around motor housing 92." Col. 4, lines 25-36 (emphasis added). Thus, according to Butler, elements 112 and 114 are not a motor housing as suggested during the telephone interview, but rather a sleeve into which the motor housing 92 and end cap 100 are contained. Thus, by equating a sleeve with a housing would eliminate elements 100 and 92 of Butler. Motor housing 92 is an insulating motor housing to provide insulation against shock; see column 4, lines 3-24. Sleeve portion 114 is a plastic sleeve; column 4, lines 32-36. Eliminating motor housing 92 and end cap 100 would thus defeat the purpose of Butler to provide a double insulating system.

In contrast, Applicants' claimed invention comprises first and second motor housings having at least one opening in each, a plurality of laminations formed in a stack and disposed within either or both the first and second motor housings, a first portion of windings substantially disposed within the first housing, and a second portion of windings substantially disposed within the second housing.

Because Butler does not disclose or suggest all of the features of claim 24, this claim is not subject to rejection under 35 U.S.C. §102(b) as being anticipated by Butler. Applicants respectfully request therefore that the rejection of claim 24 be withdrawn and the claim allowed.

Further, because claims 25-30, 32, 33, 35 and 36 depend from claim 24 they are likewise not subject to rejection under 35 U.S.C. §102(b) for at least the reasons set forth above with respect to claim 24.

² In re Wilder, 166 USPQ 545, 548 (CCPA 1970)

Claims 37, 38, 45 and 46, although not identical to claim 24, each recite features similar to those of claim 24. Therefore, claims 37, 38, 45 and 46 are thus not subject to rejection under 35 U.S.C. §102(b) as being anticipated by Butler. Applicants respectfully request therefore that the rejection of claims 37, 38, 45 and 46 be withdrawn and the claims allowed.

Further, because claim 39 depends from claim 38 it is likewise not subject to rejection under 35 U.S.C. §102(b) for at least the reasons set forth above with respect to claim 38.

Rejections Under 35 U.S.C. Section 103

The Office Action at page 5, paragraph 10 sets forth "Claims 31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler, 862 and in view of Chen US patent 6,439,862." Applicants respectfully traverse this rejection for the reasons set forth below.

Chen is relied upon as teaching a ... "square stator shape ... for the purpose of press fitting of the stator and better fluid circulation." Applicants respectfully disagree with this interpretation and note that there is no mention whatsoever of "press fitting" the stator as suggested in the Office Action.

Nonetheless, the Chen reference fails to make up for the other deficiencies of Butler. Accordingly, Applicants respectfully suggest that the rejection of claims 31 and 34 under 35 U.S.C. §103(a) is improper and request that the rejection should be withdrawn and the claims allowed.

Appln. No.: 10/820,982
Amendment Dated December 14, 2004
Reply to Office Action of September 14, 2004

LPI-126US1

Conclusion

In view of the foregoing remarks, Applicants submit that the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,

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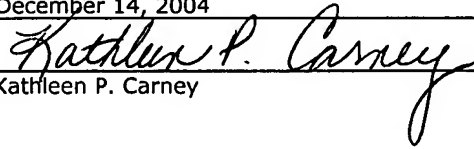
Dated: December 14, 2004

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December 14, 2004



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